

Pesticide registration decision may bring suit against EPA

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Activist groups are threatening to sue EPA over the agency's decision to register a new pesticide without first consulting with federal wildlife officials on the product's risks to endangered species as required under the Endangered Species Act (ESA).

Section 7 of the ESA generally requires federal agencies to consult with the US Fish and Wildlife Service and the National Marine Fisheries Service (the Services) 1) to determine whether a federal action, which includes pesticide registration, could cause jeopardy to an endangered or threatened species and 2) then take steps to mitigate or prevent those impacts.

EPA and the Services have struggled for a long time with such consultations, in part because of different statutory requirements. The Services' assessments and mitigation measures



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conducted under the ESA are aimed at ensuring "no jeopardy," while EPA's registration requirements under the Federal Insecticide, Fungicide & Rodenticide Act are intended to ensure no "unreasonable adverse effect" to the environment.

In November, the relevant agencies announced a new framework for assessing pesticides' risks to endangered species based on recommendations from the National Academy of Sciences. EPA said that it would implement the process primarily during registration reviews of existing pesticides and not for the registration of new pesticides.

This new petition signals that advocates plan to fight the agency's new assessment process and have it apply to new substances as well as existing chemicals. Their March 21 letter to EPA Administrator Gina McCarthy alleges that the agency's Feb. 5 registration of cyantraniliprole violates two provisions of the ESA and undermines the agency's recent effort to reform its policies for preventing pesticides' risks to endangered species. If EPA does not act to correct the violations in 60 days, the groups say they will file a lawsuit.